

CALIFORNIA COMMISSION ON DISABILITY ACCESS FULL COMMISSION MEETING MINUTES

April 22, 2015

1. CALL TO ORDER

Chair Guy Leemhuis welcomed everyone and called the meeting of the California Commission on Disability Access (CCDA or Commission) to order at 10:07 a.m. at the California Endowment, 1000 North Alameda Street, Los Angeles, California 90012.

ROLL CALL

Commissioners Present:

Guy Leemhuis, Chair
Steve Dolim, Vice Chair
Chris Downey
Celia McGuinness
Lillibeth Navarro
Michael Paravagna
Anthony Seferian
Douglas Wiele
Betty Wilson
Laurie Cohen Yoo

Commissioners Absent:

Scott Hauge
Chester "Chet" Widom
Assemblymember Tony Thurmond
Assemblymember Chad Mayes

Staff Present:

Angela Jemmott, Executive Director
Brandon Estes, Program Analyst

Also Present:

Jeff Bytheway, Training Officer, Department of Building and Safety, City of Los Angeles,
Senior Building Inspector, CASp
Jerry Gibbons, Acting Chief, Office of Civil Rights, and Manager, Disability Management
Program, California Department of Human Resources (CalHR)
Janet Neal, President, Los Angeles County Commission on Disabilities (LACCOD)
Keith Nelson, City of Riverside, Commission on Disabilities

Staff Member Estes called the roll and confirmed the presence of a quorum.

PLEDGE OF ALLEGIANCE

Chair Leemhuis led the Commission in the Pledge of Allegiance.

HOUSEKEEPING ITEMS

Chair Leemhuis reviewed the meeting protocols.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
APRIL 22, 2015, MEETING MINUTES**

2. RENDERING OF OATH

Commissioner Seferian led the swearing in of office for re-appointment of Chair Leemhuis, Vice Chair Dolim, and Commissioner Downey, and for new Commissioner Celia McGuinness.

3. WELCOME OF NEW COMMISSIONERS

Commissioner McGuinness introduced herself and stated she looked forward to working with everyone on the Commission.

4. APPROVAL OF MEETING MINUTES (JANUARY 14, 2015) - ACTION

MOTION: Commissioner Wilson moved to approve the January 14, 2015, California Commission on Disability Access Full Commission Meeting Minutes as presented. Commissioner Paravagna seconded. Motion carried unanimously.

5. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA

Jerry Gibbons, the Acting Chief of the Office of Civil Rights, and Manager of the Disability Management Program of the CalHR, introduced himself and stated the CalHR hopes to participate in future CCDA meetings and collaborate with the Commission.

6. LOCAL DISABILITY COMMISSIONERS

a. Los Angeles (city and county)

Janet Neal, President of the Los Angeles County Commission on Disabilities, provided a review of the LACCOD's issues, activities, and projects of 2014 and goals for 2015.

Commissioner McGuinness asked for further details on the issue of parking. Ms. Neal stated the Department of Transportation is trying to shorten the length of metered parking and the community is fighting back.

Commissioner Downey suggested considering San Francisco's solutions reviewed in a Commission meeting last year. He also stated the issue that the Department of Motor Vehicles (DMV) is unable to search their database for disabled parking placards to determine those that have passed on or no longer need it or to track where the placards are issued to determine possible fraudulent placard prescriptions.

Commissioner Dolim asked who the responsible entity would be to ask the DMV for an update on those issues. Chair Leemhuis suggested asking a representative from the DMV to present the issues and limitations to the Commission.

Ms. Neal suggested viewing the video from CBS News with David Goldstein regarding this issue. She stated there are people who claim that they have friends working at the DMV who give them placards.

b. Riverside

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
APRIL 22, 2015, MEETING MINUTES**

Keith Nelson, of the City of Riverside Commission on Disabilities (COD), provided a review of the COD's issues, activities, and projects of 2014 and goals for 2015.

Commissioner McGuinness asked about the database of individuals with special needs for the benefit of police and what input the disability community has had regarding civil rights and privacy of that database. Mr. Nelson stated it is Health Insurance Portability and Accountability Act (HIPAA) compliant if someone voluntarily puts in their own information. The COD has asked counsel to look into an option for withdrawal for adults whose names were put in while they were minors.

Commissioner McGuinness asked if the nature of a person's disability is included in the database and if police are trained to understand the implications. Mr. Nelson stated the Riverside Police Department has committed to increase training on interaction with people with special needs. The COD does not intend to disclose more information than necessary in the database, only to include the type of situation to expect and the protocols to use.

Commissioner Wilson asked how the COD is coordinating this with the county. Mr. Nelson stated commissioners are appointed by the city council and report to them twice a year; most commissioners are also on the Regional Center Board of Trustees, which allows access to more agencies.

Commissioner Paravagna asked if there have been issues with keeping the database current. Mr. Nelson stated each person on the database has access to their own page and the COD sends out reminders to update their information.

Commissioner Paravagna asked how the COD puts together their public service announcements (PSAs), the budgets involved with that, and the resources utilized in the county. Mr. Nelson stated the city of Riverside has a full-service audiovisual (AV) department.

c. Compton

This agenda item was not discussed.

Action Items:

- No action items.

7. SUBCOMMITTEE UPDATES

a. Checklist Committee

Commissioner Dolim, the Chair of the Checklist Committee, provided an overview of the mandate, purpose, history, and development of a master checklist for disability access compliance for use by building inspectors. The Checklist Committee created a tickler-style, carry-along checklist based on the phases of construction. It has been reviewed by legal counsel and is ready to be launched as a collaborative effort with stakeholders as follows:

CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
APRIL 22, 2015, MEETING MINUTES

- Post the checklist on the CCDA and stakeholder websites
- The California Building Officials (CALBO) has approximately 500 building departments on their mailing list
- Print checklists to give to the 500 building departments at .79 a piece
- The Certified Assess Specialist Institute's (CASI) membership is half private practitioners in access - architects and Certified Access Specialists (CASps) - and half building inspectors
- The International Code Council (ICC) has an upcoming access workshop in the San Francisco area for a broader reach and validation of the checklist
- Richard Halloran, a Senior Building Inspector with the city of San Francisco, has coordinated with the chair of the San Francisco Access Committee to offer the opportunity for the CCDA to use the San Francisco City Hall's audiovisual room

Commissioner Dolim stated the Education and Outreach (E&O) Committee will hold an event in San Francisco on June 24th. He suggested coordinating this around that event. He asked the Commission for direction to discuss available financial support to launch the checklist.

Commissioner Dolim stated the Checklist Committee was additionally asked to consider providing aid to updating Richard Skaff's Restaurant Accessibility Field Guide, a 55-page consumer checklist put together on the 2010 California Building Code (CBC) and the 2010 Americans with Disabilities Act (ADA) Standards, and, in addition, broadening its scope beyond the restaurant community.

Commissioner Dolim stated the Field Guide is a helpful document specific to new construction in a restaurant, but the Checklist Committee determined that it was almost as large as the codes. Also, there are members of the Checklist Committee from the California Department of Housing and Community Development (HCD) who helped write Chapter 11A, and from the Division of the State Architect (DSA) who helped write Chapter 11B. Writing a document that summarizes the code would necessitate those members to recuse themselves from the discussion.

Commissioner Dolim stated, to dispel the myth that businesses do not have to worry about accessibility if their building is only 10 to 15 years old, the Checklist Committee recommends that efforts would be better served to create a flowchart to show the public why they are not grandfathered in and which codes and regulations at the state and federal level they have to pay attention to, which will better equip them to enlist the professional services of architects, engineers, or CASps.

Commissioner Questions:

Chair Leemhuis asked to what extent it would be helpful to have specific checklists for areas that are at greater risk of litigation, such as older buildings, restaurants, churches, banks, or parking lots. Commissioner Dolim stated there are commercially-

CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
APRIL 22, 2015, MEETING MINUTES

available products that are specialized and kept up to date, although they do not address all situations and do not dispel the myth that a building is grandfathered in.

Chair Leemhuis stated small businesses may not be aware that these products are available. He suggested contacting the groups that produce them to ask about the products planned for the future, give them input, and establish an ongoing relationship.

Commissioner McGuinness stated both the commercially-available products and a flowchart are useful. She stated common stumbling blocks are the difference between historic and old, tenant improvement, changes in occupancy, and interactions between Title 24 and the ADA, particularly the question of "readily achievable" under the ADA. She suggested having access compliance information at local business licensing offices explaining why compliance is important and how it can be dangerous if not addressed.

Commissioner Wiele stated business owners are focused on their businesses and do not give much thought to access. He suggested resources would be better spent raising public awareness of available documents rather than devoting resources to create new ones. He suggested using the CCDA website as a clearinghouse for pieces like this. With increased public awareness of the CCDA website and of the issues, publishers may approach the Commission about including their material on the website.

Commissioner Downey shared a comment brought up in the Checklist Committee meeting about the fear of creating a consumer checklist that gave the appearance of being able to self-determine compliance. The focus of the Commission has been to point consumers to qualified professionals to get the information they need. The consumer checklist should be something to better prepare a business owner to have the right conversation with a professional.

Commissioner Wilson stated the E&O Committee will be developing activities, programs, seminars, workshops, training, and events that address every idea suggested here.

Public Comment:

Ms. Neal stated gyms often remodel in ways that are not compliant.

Commissioner Discussion:

Commissioner Wiele stated he is the vice chair of the California Business Properties Association and fitness centers are members of that association. He suggested offering to do a pilot program with them. Ms. Neal offered to help and asked that the pilot program include the Spectrum Club.

Chair Leemhuis suggested that the Executive Committee discuss reframing the Checklist Committee to work on other CCDA deliverables from the strategic plan, such as reaching out to gyms in the area.

b. Education and Outreach Committee

Commissioner Wilson, the Chair of the E&O Committee, stated the Committee is beginning to work with the Checklist Committee to develop media outlets and is

CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
APRIL 22, 2015, MEETING MINUTES

working to develop effective ways to reach out to the public and state officials. She stated Commissioner Downey is the lead in the June 24th event in San Francisco.

Commissioner Downey stated he worked with Mr. Halloran to secure the city hall audiovisual room on June 24th from 1-5 p.m. to live stream and allow participation statewide in the announcement of the checklist for building inspectors to be made available on a statewide level. He stated the need to confirm that the material will be ready to go by that date to make it a meaningful media release of this document. Commissioner Downey stated press releases will be sent out announcing the new tool and the June 24th event.

Commissioner Wilson stated the E&O Committee continues to explore venues that will reach statewide:

- Events in Central California and San Diego
- Presentations in other states showcasing California as a model for accessibility
- PSAs as information or products are developed

Commissioner Paravagna stated the need to balance the resources between events that give the Commission some visibility but may not have the necessary impact. He suggested looking at other forms in addition to the events, such as web-based training models or PSAs that have the capacity to reach a broader audience.

Commissioner Wilson agreed and stated the need for a comprehensive database of organizations, agencies, and professional affiliations. She emphasized that the chairs of architecture departments of universities and colleges be invited to events.

Commissioner Downey agreed with Commissioner Paravagna and stated Mr. Halloran suggested capturing the live streamed event in San Francisco to make it available as a continuing education unit for inspectors throughout the state of California. The continuing education units required of all building inspectors will be an incentive to watch the training module.

Commissioner Dolim stated, relative to the short time before the June 24th event, the E&O and Checklist Committees need budget authority to move forward financially. He asked for guidance.

Chair Leemhuis stated there are funds available due to salary savings. The Executive Committee will identify Commissioners to attend the event and other budget needs in the May 13th meeting. He stated there is \$16.06 in the private fund where public donations are accepted. He encouraged Commissioners to reach out to businesses in the San Francisco area that may be willing to co-sponsor the event.

c. Legislative Committee

Commissioner Paravagna, the Chair of the Legislative Committee, summarized the activities that have gone into structuring the Legislative Committee. He and staff had meetings with Assemblymember Mark Stone at his office's request, Assemblymember

CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
APRIL 22, 2015, MEETING MINUTES

Chad Mayes and his staff, and Assemblymember Tony Thurmond's staff to introduce the Commission to them.

Commissioner Paravagna stated there was more public interest in the meeting of the first Legislative Committee than in today's meeting – legislation is an area that is important. There was discussion about setting up a dialogue between the business and disability communities and to incentivize access through legislation that will result in balance and cooperation between the communities.

Commissioner Paravagna recommended minor revisions to Policy Memorandum 2012-02, which is about the protocols for the Commission to take a position on legislation. The revision sets up a relationship between the Executive and Legislative Committees where the routine things can be handled at the Executive Committee level with recommendations sent to the full Commission.

Chair Leemhuis summarized the Legislative Committee's proposed changes. He made a friendly amendment to Item 7 to include the Legislative Committee Chair's signature on all letters. Commissioners Wilson and McGuinness agreed.

MOTION: Commissioner Wilson moved to approve the revised protocol for the California Commission on Disability Access to take positions on legislation. Commissioner McGuinness seconded. Motion carried unanimously.

Action Items:

- The Executive Committee is to discuss reframing the Checklist Committee.

8. EXECUTIVE REPORT

a. General Board Operational Updates

Executive Director Jemmott reminded Commissioners of the tools that are available to them in the Commissioner binder, such as the Roberts Rules of Order. She highlighted the section on Committee chairs.

b. CCDA Staffing

Executive Director Jemmott stated the interviews to replace her old position have been completed and an offer has been accepted. The process for filling the office administrator position will begin soon.

c. Data Collection

Executive Director Jemmott stated the Commission met its legislative responsibility of providing the top ten lawsuit demand letters and claims on the CCDA website; these were included in the annual report to the Legislature. She stated the importance of providing accurate data, because the Legislature and members of the public quote the information contained in the CCDA reports and use it to support their arguments.

CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
APRIL 22, 2015, MEETING MINUTES

Executive Director Jemmott stated the mandated data collection ends in January of 2016 and legislation needs to be put in place to extend that time.

Executive Director Jemmott summarized the types of targeted locations for lawsuits and the twelve categories they were put into. The information is on the CCDA website.

Commissioner Navarro asked for further details about the sunset clause. Executive Director Jemmott stated the data collection was done as an experiment and the Legislature has waited for the CCDA's feedback to make further decisions on the budget or the duration of the project based on the success and usefulness of the project.

Commissioner Paravagna suggested asking about the lessons learned and how the Commission can guide legislation to refine what it is expected to do by virtue of what has been learned.

Commissioner Navarro suggested not only posting the top ten violations, but including the top ten gains. Chair Leemhuis agreed that additional data is valuable but stated the Commission will need greater resources from the Legislature to collect that data.

d. Outreach Efforts

1. Riverside Workshop

Executive Director Jemmott stated the Commission hosted a workshop recently in Riverside in combination with Senator Roth's office, the DSA, and the Civil Justice Association of California (CJAC). Senator Roth's office has asked the Commission to participate in another event and the Commission will continue to partner with the DSA and the Department of Rehabilitation (DOR).

Commissioner McGuinness asked about the nature of the questions asked. Executive Director Jemmott stated the message of the DSA video presentation was about dispelling myths and hiring CASps. The CCDA's supportive role was to provide written information.

2. Legislative Offices

Executive Director Jemmott stated the Commission has never had strong relationships with legislators but has been connecting more with them recently, especially with the formation of the Legislative Committee. Part of the strategic plan is to make those relationships and to be more proactive with legislation.

Action Items:

- No action items.

9. PRESENTATION – "THE WORLD OF THE LOCAL BUILDING OFFICIALS"

Jeff Bytheway, the Training Officer for the Department of Building and Safety for the City of Los Angeles, a Senior Building Inspector, and CASp, provided an overview of the background, issues, and challenges of the Los Angeles Building Department. He stated he worked with Ewa O'Neal, who is on the CCDA Checklist Committee, and has greatly

CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
APRIL 22, 2015, MEETING MINUTES

missed her since her retirement. Ms. O'Neal and her team ensured that architects were putting correct information on their plans, which made enforcement easier because the information was readily available.

He stated Ms. O'Neal informed him of the new checklist for building inspectors. He thanked the Commission for undertaking that work, stated it will be very helpful, and assured it will be in the hands of his inspectors at the next training. He stated he particularly liked that the checklist includes the pertinent code section and things inspectors are not used to seeing, and is a concise, carry-along tool.

The need for education and training:

- Architects and plan checkers
 - Stay current on code changes so plans are comprised of correct information
- Contractors
 - Understand the changes to the code and have commercial contracting knowledge
 - Do not deviate from the plan after a certain point
 - Know when to call the building inspector, as this can avoid many potential problems
- Building inspectors
 - Stay current on code changes
 - Look at plans in a more progressive way than what they are used to doing
 - Understand the problems and address them early on in the project
 - Do not ignore the rest of the project and concentrate solely on the reason for the call – it can create problems later in the project
- Business owners and property owners
 - Often have the misconception that they do not have to do anything because they have not done any renovations to their property
 - Do not want to take up the space and do not understand that it is not a choice or about convenience, but about civil rights

The challenges of CASp certification:

- It is difficult to ascertain how many CASps are necessary
- It has been a challenge to CASp-certify building inspectors because the CASp test is meant more for plan checkers, not building inspectors

The challenge areas for inspectors:

- Accessibility spaces of fitness equipment

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
APRIL 22, 2015, MEETING MINUTES**

- Requiring loading zones in medical buildings
- Specific requirements for boat docks, fishing piers, and swimming pools
- Shooting facilities and golf courses
- Maneuvering spaces

Commissioner Questions and Discussion:

Commissioner Navarro asked how much inspectors negotiate the nine ways to approach a door. Mr. Bytheway stated there is no negotiation; there is only compliance. If something does not comply, it needs to be done again until it is to code.

Commissioner Paravagna asked what needs to change in the system to make building inspectors' jobs more doable and their staff more effective. Mr. Bytheway stated they go by the code, but, when the code is changed, it takes time for inspectors to relearn that code. Building inspectors do twenty-six inspections per day and do not have time to look every item up because the code may have changed. The job is doable as long as inspectors know and understand the code.

Commissioner Dolim thanked Ms. O'Neal for participating in the Checklist Committee, as she played a vital part. He asked if Mr. Bytheway belonged to an organization of building officials, such as the CALBO. Mr. Bytheway stated he does not.

Commissioner Dolim stated the general contractors' associations have indicated that they feel they do not need further education – that all they have to do is follow a plan. Mr. Bytheway agreed that that is the problem. Inspectors need to learn that, if they are going to sign off on something, the more they know, the more it helps them.

Commissioner Dolim asked if Mr. Bytheway was familiar with the commercially-available checklists discussed earlier today. Mr. Bytheway stated he does not hand out anything put out by the public if he has not double-checked them and some things do not apply.

Commissioner McGuinness asked if there were other places where the system can break down, such as at the plan-checker level. Mr. Bytheway stated not all plan-checkers or inspectors have gone through the CASp training, so it can get missed in plan check. There are times architects leave things out, hoping the inspectors will not catch it, because of the additional expense.

Commissioner McGuinness asked if the Commission should focus on rule changes or education to have the greatest impact on ensuring things are built the way they should be. Mr. Bytheway stated it all starts with education.

Action Items:

- No action items.

10. CCDA BILL TRACKING

AB 52 (Gray D) Public accommodations: construction-related accessibility claims.

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
APRIL 22, 2015, MEETING MINUTES**

Assembly Bill (AB) 52 was removed but staff will continue to watch it.

AB 1342 (Steinorth R) California Commission on Disability Access.

Chair Leemhuis stated Assemblymember Steinorth's office has sponsored a bill that specifically will help the CCDA do its work. The Commission is working to make the one-time increase of \$500,000 an annual appropriation. It passed through the Judiciary Committee yesterday with additional helpful amendments. He commended Executive Director Jemmott for anticipating legislators' questions, providing them with supporting documentation, and working to secure the Commission with additional funding.

SB 67 (Galgiani D) Disability access: statutory damages.

Executive Director Jemmott stated there has been no movement with this bill.

SB 251 (Roth D) Civil rights: disability access.

Executive Director Jemmott summarized this bill and stated there have been discussions about adding the sunset clause concerns, such as the data collection sunset of 2016.

SB 624 (Anderson R) Accessible state technology.

Executive Director Jemmott summarized this bill and stated it will be heard on April 28th.

AB-54 (Olsen R) Public accommodations: construction-related accessibility standards: tax credit.

Executive Director Jemmott stated AB 54 was heard by the Assembly Judicial Committee yesterday. Section 1(b)(2)(c) includes that the CCDA "shall post information about this tax credit on its Internet website and include in its annual report to the Legislature the impact the tax credit has had on reducing ADA compliance lawsuits." Executive Director Jemmott stated the Commission has not collected this information, so it will have to weigh in on this responsibility.

Chair Leemhuis added that this bill limits statutory rights and is an unfunded mandate to the CCDA. He asked the Executive Director or the Legislative Committee Chair to follow up with this office. He stated he asked the Legislative Committee to create a consent principle calendar to give guidance to the Commission for positions on bills.

Commissioner McGuinness asked if AB 54 still has the finding language in it. Chair Leemhuis stated these bills are on the Commission's "do not support" list because of the problematic language.

AB-662 (Bonilla D) Public accommodation: disabled adults: changing facilities.

This bill will added to tracking and to the CCDA website.

Action Items:

- Staff is to follow up on AB 54.

11. BUDGET REPORTING

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
APRIL 22, 2015, MEETING MINUTES**

Executive Director Jemmott stated the total budget for 2014-15 is \$511,000. Accounting notified staff that the Commission did not have access to the revolving fund and required staff to allocate the funds to be put into the revolving fund. \$5,500 has been allocated to the revolving fund. She stated upgrades to office technology have been purchased, which will show up on the next reporting cycle. The Commission is on track and doing well with the monthly expenditures.

Action Items:

- No action items.

12. COMMENTS FROM COMMISSION MEMBERS

Chair Leemhuis stated he will be asking each Commissioner to join him on relationship-building quests throughout the state in the coming months. He asked Commissioners to share what they are doing in the community relative to the work of the Commission. Commissioners Paravagna, McGuinness, Downey, Wilson, Dolim, and Navarro spoke about their community work.

Chair Leemhuis stated California will celebrate 25 years of the ADA this July. He suggested doing something that will be inexpensive but symbolic as a Commission with key stakeholders, such as a ceremonial proclamation of the Commission's commitment to working with the small business community to create an accessible California. He suggested gathering about fifty people who are in charge of making systemic change to pledge to work together and having a press release and press conferences in the north and south in July in the spirit of the ADA and the celebration of its existence.

Action Items:

- No action items.

13. FUTURE AGENDA ITEMS

- Create a consent calendar for legislative principles
- Ask the DMV to present about placard abuse and improving the DMV database
- Ask organizations from the business and disability communities to present at full Commission meetings about issues that are important to them, about the work that this Commission is doing, and about ways to facilitate solutions
- Identify a designated location in Southern California to allow advocates and stakeholders from Southern California to provide comments and feedback when Northern California meetings are held

14. ADJOURN

MOTION: Commissioner Paravagna moved to adjourn the April 22, 2015, California Commission on Disability Access Full Commission meeting. Commissioner Wiele seconded. Motion carried unanimously.

Chair Leemhuis adjourned the meeting at 3:53 p.m.